

Hon Andrew Little
Minister of Justice

Proactive release – 2020 Cannabis Referendum

Date of issue: 7 May 2019

The following document has been proactively released in accordance with Cabinet Office Circular CO (18) 4.

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

No.	Document	Comments
1	2020 Cannabis Referendum – legislative process and overarching policy settings for the regulatory model <i>Cabinet paper</i> Office of the Minister of Justice Considered by Cabinet on 6 May 2019	Some information has been withheld in accordance with: <ul style="list-style-type: none">• section 9(2)(f)(iv) of the OIA to protect the confidentiality of advice tendered by Ministers of the Crown and officials, and• section 9(2)(h) of the OIA to maintain legal professional privilege.

In Confidence

Office of the Minister of Justice

Chair, Cabinet

2020 Cannabis Referendum – legislative process and overarching policy settings for the regulatory model

Proposal

1. Following decisions taken at the end of last year on the nature and timing of the referendum, this paper reports back on the potential process for the binding referendum on the legalisation of recreational cannabis. The next issue to be resolved is the content of the question used for the referendum.
2. The paper sets out options for the nature of the question to be asked. Three of the options relate to policy frameworks, with two of these relating to possible legislation. Possible content of policy frameworks is set out. Following these decisions, I will report back to the Cabinet Social Wellbeing Committee with further details of the regulatory model.

Executive Summary

3. Cabinet has agreed to hold a binding referendum at the 2020 General Election to determine whether personal use of recreational cannabis should be legalised. If the binding nature of the referendum is to be meaningful it will be necessary to be as clear and certain about the outcome of a 'yes' vote as possible.
4. The referendum question should provide voters with a clear choice on this important matter. Also, there may be merit in allowing for the public education in the lead up to the referendum to better understand the final regulatory model that is adopted.
5. I have identified four possible approaches to setting the referendum question, each providing a different balance between flexibility for the regulatory model to adapt and be shaped by the public debate, and certainty of outcome in the case of a 'yes' vote in the referendum.
6. For reasons I outline, I prefer a 'yes/no' question based on a clear proposition. It follows from this that a question including multiple parts with separate choices over different aspects of a possible regulatory regime has the potential to lead to confusion and should be avoided.

Background

7. On 17 December 2018, Cabinet agreed to hold a binding referendum at the 2020 General Election to determine whether legislative provisions for the legalisation of cannabis should be adopted [CAB-18-MIN-0641.02 refers].
8. The referendum question and associated publicity material needs to clearly signal what would happen as a consequence of a 'yes' vote. A 'no' vote would mean

continuation of the status quo, and so that outcome would be certain. In the interests of an informed referendum, there must be certainty about the consequence of a 'yes' vote.

9. What that consequence will be is dependent on the extent of change Cabinet is prepared to countenance. Cabinet has invited me to report back to the Cabinet Social Wellbeing Committee (SWC) on the legislative process for the binding referendum.
10. Cabinet agreed to establishing a cross-party reference group to test any regulatory model being developed and allow other political parties a chance to input into the process [CAB-18-MIN-0641.02 refers].
11. Cabinet also agreed to an iterative process to meet these timeframes, whereby SWC will make decisions on any regulatory model through short-form Cabinet papers and oral items between now and April 2019. The final agreed approach to the referendum will then be considered by Cabinet [CAB-18-MIN-0641.02 refers].
12. Decisions now need to be made on the content of the question to be used for the referendum, and the overarching policy settings for any proposed regulatory model.

Approach to the referendum question

13. The content of the question used for the referendum will be important in helping to frame the public conversation about legalising recreational cannabis. A simple yes/no question, based on a clear proposition, gives voters the clearest choice.¹ For this to be meaningful, the public will need to have clarity about what will happen after the referendum, if the outcome is an affirmative vote to legalise recreational cannabis.
14. There are four possible approaches to posing the referendum question:
 - 14.1. A general question consistent with the undertaking in the Confidence and Supply agreement: *"Do you support legalising the personal use of recreational cannabis?"* This would not be accompanied by any legal framework or other policy decisions, and it would be left to a subsequent Parliament to determine what to do in the event of a 'yes' vote;
 - 14.2. A question referring to a specific policy framework document setting out the basic principles of what legalisation of the personal use of recreational cannabis in New Zealand might entail: *"Do you support legalising recreational cannabis in accordance with [published policy document]?"* A 'yes' vote would result in the duly elected government and Parliament having some moral imperative, but no obligation, to enact law changes consistent with that policy document;
 - 14.3. A question referring to an exposure draft piece of legislation that outlines the suggested regulatory model for cannabis but was not introduced into the House until the result of the referendum was known: *'Do you support*

¹ A single option outcome, rather than multiple options, is also important because such votes can be counted manually. Any form of preferential voting requires the creation of an automated counting process to reallocate votes; this is much more costly and time consuming to develop.

legalising the personal use of recreational cannabis in accordance with [published draft legislation]?”. This exposure draft would be provided in confidence to limited stakeholders for consultation and a final exposure draft that would be the subject of the referendum would follow. Similar to option 2, a ‘yes’ vote would result in the duly elected government and Parliament having some moral imperative, but no obligation, to enact the legislation;

14.4. A question referring to legislation already enacted but conditional on an affirmative vote on the referendum: *“Do you support legalising recreational cannabis in accordance with the [Drug Reform] Act 20XX?”* A ‘yes’ vote would trigger the legislation coming into effect.

15. The table below sets out the four possible approaches to framing the referendum question, and the advantages and disadvantages of each approach.

Description	Advantages	Disadvantages
Option 1: Yes/No question on whether personal use of recreational cannabis should be legalised through action by subsequent Government/Parliament <i>e.g. Do you support legalising the personal use of recreational cannabis?</i>		
<p>This option would not include a fully developed and enacted law. Rather, it would rely on voters developing their understanding and views of what legalisation might look like from public debate, and statements made by political parties leading up to the referendum.</p> <p>Following an affirmative vote, the Government would determine whether and when to introduce legislation. It would also need to determine the shape of the regulatory model.</p> <p>The usual Parliamentary process would apply to the Bill and enable the regulatory model to be adjusted accordingly.</p>	<ul style="list-style-type: none"> • Offers greater flexibility for the Government to shape the regulatory model based on the public debate leading up to the referendum. • Parliament's consideration of the regulatory model would be informed by the public debate prior to the referendum. • Provides maximum amount of time to develop the details of the regulatory model. 	<ul style="list-style-type: none"> • Offers little certainty about key features of the regulatory model (such as minimum age to use and purchase) which may be important factors for many voters • Does not provide certainty to the public about what will happen (and when) following any affirmative vote. It is effectively a Brexit referendum question.
Option 2: Yes/No question on whether a published policy framework should be enacted by subsequent Government/Parliament <i>e.g. Do you support legalising the personal use of recreational cannabis in accordance with [policy document]?</i>		
<p>This option could use a policy document to provide more detail on the proposed regulatory model. No legislation would be enacted prior to the referendum.</p> <p>Following an affirmative vote, the Government would have a clear mandate to act on and could introduce legislation in accordance with the policy document.</p> <p>The usual Parliamentary process would apply to the Bill and enable the regulatory model to be adjusted accordingly.</p>	<ul style="list-style-type: none"> • Offers more certainty for the public about what the regulatory model could look like. • Parliament's consideration of the regulatory model would be informed by the public debate prior to the referendum. • Provides some more time to develop the details of the regulatory model, and flexibility to incorporate changes or new ideas arising from the public debate. 	<ul style="list-style-type: none"> • Any bespoke public engagement process (rather than a select committee process) requires additional funding. • Potential for public confusion over the status of the policy document in the referendum. • A change of Government post-election could entail major changes to the proposed policy approach, including disregarding the public's will, which could be seen to undermine the referendum.

Description	Advantages	Disadvantages
Option 3: Yes/No question on whether draft legislation should be enacted by subsequent Government/Parliament e.g Do you support legalising the personal use of recreational cannabis in accordance with [exposure draft legislation]?		
<p>This option could use draft legislation to provide more detail on the proposed regulatory model. The legislation would not be enacted prior to the referendum. As per usual exposure draft practices, it would be accompanied by straightforward guides to the legislation.</p> <p>Following an affirmative vote, the Government would have a clear mandate to introduce, and subsequently enact, the legislation.</p> <p>The usual Parliamentary process would apply to the Bill and enable the regulatory model to be adjusted accordingly.</p>	<ul style="list-style-type: none"> • Offers a high level of certainty for the public as to what the regulatory model would look like and how it would be put into law • Parliament's consideration of the regulatory model would be informed by the public debate prior to the referendum. • Provides some more time to develop the details of the regulatory model, and flexibility to incorporate changes or new ideas arising from the public debate. 	<ul style="list-style-type: none"> • Any bespoke public engagement process (rather than a select committee process) requires additional funding. • Limited opportunity for public debate and discussion to inform the content of the regulatory model. • A change of Government post-election could entail major changes to the legislation, including disregarding the public's will, which could be seen to undermine the referendum.
Option 4: Yes/No question on whether legislation enacted prior to the referendum should come into force e.g. Do you support legalising the personal use of recreational cannabis in accordance with the [Drug Reform] Act 20XX?		
<p>This option would provide the greatest level of certainty about the regulatory model, what would occur and when, following an affirmative vote.</p> <p>An affirmative vote would bring into force an already enacted piece of legislation, which regulates the personal use of recreational cannabis, including age, access and supply limits.</p> <p>The legislation could include transitional provisions and further work to implement the law could begin immediately following a 'yes' vote.</p>	<ul style="list-style-type: none"> • Provides maximum certainty about what the regulatory model would look like, enabling voters to make an informed choice. • Provides maximum certainty about what would happen, and when, immediately following the referendum. • It is the option most consistent with the binding nature of the referendum. 	<ul style="list-style-type: none"> • Time is very tight to develop and enact the necessary regulatory model before December 2019. • There is less opportunity for public debate and discussion to inform the content of the regulatory model. • The process for developing and enacting the legislation may give the appearance of approving a scheme ahead of the public's view expressed in the referendum.

16. Any government-initiated referendum held alongside the General Election will require legislation to set up the referendum framework. This proposal was agreed by Cabinet on 8 April 2019 in the paper 'Planning for the delivery of the 2020 General Election' [CAB-19-MIN-0129].

General question with no accompanying material

17. Asking the general question *"Do you support legalising the personal use of recreational cannabis?"* without any accompanying material would, in my view, be the least helpful of the options and the least consistent with the binding nature of the referendum. It would leave the electorate uncertain about what the consequence of a 'yes' vote might be.
18. Having identified previously [CAB-18-MIN-0461.02] the three principle risks associated with some form of legalisation (access by adolescents, incidence of driving under the influence, impact on work health and safety), the absence of associated material would leave the electorate uncertain about how these and other risks would be addressed. In the event of a 'yes' result, it would leave the next Parliament to discern what the public is prepared to accept by way of regulation and control. I do not recommend this option.

General question with reference to policy document

19. Asking the referendum question with reference to a policy document provides greater certainty for voters about what a 'yes' vote would mean.
20. The policy document could set out how public health and other risks would be addressed. In the event of a 'yes' result, the policy document would be the basis on which the subsequent Parliament might legislate.
21. However, as each Parliament is sovereign to itself, it would ultimately be a matter for that Parliament what it legislates for, if anything.
22. Although a policy document accompanying the referendum question may create a political imperative for Parliament to follow it in the event of a 'yes' vote, there would be no certainty that the policy document would be followed as Parliament would be free to make its own collective judgement about the content of legislation.

General question with reference to draft legislation

23. Asking a general question with reference to draft legislation provides a high level of certainty for voters about what a 'yes' vote would mean.
24. The exposure draft legislation could set out how the regulatory model would work and, like other exposure draft processes, be accompanied by a 'walkthrough' and other materials to assist the public in their understanding of the draft legislation.
25. However, as with the above options, each Parliament is sovereign to itself and it would ultimately be a matter for that Parliament what it legislates for, if anything. Following a 'yes' vote, there is also a risk that the legislation, if introduced, could be changed significantly by the next Parliament or Government before it is enacted.

Question with reference to enacted legislation

26. A referendum question that refers to an enacted piece of legislation, with that legislation coming into effect only in the event of a 'yes' result, would provide the electorate with the greatest certainty about the consequences of their vote.
27. It would require the current Parliament to make the rules which would be subject to the usual public consultation applying in any law-making process. This would create a number of efficiencies and certainty around the process for engagement. If this option is favoured, an ad-hoc select committee focused solely on this issue could be established and engage with people across the country (discussed below).
28. However, as with the above options, each Parliament is sovereign to itself. Following a "yes" vote, there is also a risk that the legislation could then be repealed by a subsequent parliament or government.

Proposed legislative process (Option 4)

29. Subject to Cabinet decisions, any legislation would preferably be passed by December 2019, with March 2020 as an absolute deadline. s9(2)(f)(iv) .
30. A full legislative process would provide an opportunity to develop a robust regulatory model with input from the public.
31. If Option 4 is considered, then our role in Government would be to design, with a limited and confidential stakeholder consultation framework, a workable regulatory model that minimises the harms associated with cannabis use. Should the referendum return a "yes" vote then this would subsequently be debated.
32. If Option 4 is considered then the select committee would examine the details of the model and also consider the views of the public.
33. Should Cabinet approve an approach in which regulatory legislation is fully developed (Option 4), I anticipate that there would be a large number of public submissions on the Bill. I consider that a standard select committee process may produce an unmanageable workload that could hamper the committee's ability to make meaningful contributions.
34. I would propose to write to the Business Committee to discuss establishing an ad-hoc select committee. This would enable the committee to have a mixture of sectoral expertise and focus on one issue, allowing it to take the time to hold meetings in a wide range of locations to hear from a cross-section of submitters within the set timeframe.
35. I would also consider mechanisms to ensure the Committee of the whole House stage is used efficiently to meet the timeframes.
36. The timeline for this process, would be as follows:

Process	Timeframe
Targeted stakeholder engagement	Now
SWC	Now – June 2019
Cross-party reference group	Now – June 2019
Bill introduced	June/July 2019
Ad-hoc Select Committee (4-5 months)	July/August 2019 – November 2019
Remaining stages of the House and Bill passed	Preferably by December 2019, but March 2020 at the absolute latest
Electoral Commission's voter education campaign	May 2020 – Election

Proposed process for a policy document or exposure draft (Option 2 or 3)

37. If a policy document or exposure draft is preferred, the process will focus on developing a document that has enough detail for the public to understand what they are voting on and the implications of legalisation. The formal document could be accompanied by a range of other material to assist with understanding. The document would also need to provide enough detail for the next Parliament to progress the work accordingly, subject to a 'yes' vote.
38. Under option 3, I would direct officials to develop the detail of a workable regulatory model and consult with relevant Ministers and the coalition and confidence and supply partners, to inform the drafting of the Bill.
39. I would report back to SWC seeking confirmation of the draft Bill, prior to targeted stakeholder engagement in August/September 2019. Cabinet approval of the final exposure draft will be sought in early 2020, prior to materials being prepared for the referendum
40. Targeted stakeholder engagement on the regulatory model is vital to a model being workable for New Zealand and mitigating risks of unintended consequences. This could be achieved through limited and confidential workshops with individuals who have expertise and experience to stress test the regulatory model and identify potential areas for refinement. Workshops could target academics and researchers, those already working in related industries (e.g. medicinal cannabis), cannabis users and iwi/Maori.
41. This process would be led by the Ministry of Justice, with input from other government agencies. The timeframes for the process would be:

Process	Timeframe
Cabinet process on the regulatory model	Now – July 2019

Cross-party reference group	Now – March 2020
Targeted stakeholder engagement	August – September 2019
Analysis - consider feedback and recommendations for changes to regulatory model	September – November 2019
Cabinet process on the finalised regulatory model	January – March 2020
Printing and dissemination of documents	March – June 2020
Public education – Release of finalised documents alongside the Electoral Commission's voter education campaign	June 2020 – Election

42. If Cabinet agrees to Option 2 or Option 3, the cost of this mirrors Option 1. The funding needed would be for public education, which is a key part of upholding the integrity of the referendum.

Extent of regulation

43. If it is agreed the referendum question should refer to a policy document, draft legislation, or enacted legislation, then the next question is what the extent of regulation should be.

New Zealand's prohibition approach has had limited success in addressing the harm caused by cannabis use

44. The Misuse of Drugs Act 1975 (MoDA) contains a range of offences relating to the use, cultivation, and sale and supply of cannabis and cannabis preparations (e.g. resin and oil). Penalties range from a fine not exceeding \$500 for use of cannabis to a maximum sentence of 14 years' imprisonment for supply.
45. Despite its prohibition, including a vigorous campaign in the employer community over the last 20 years for drug-free workplaces, cannabis is the most commonly used illegal drug in New Zealand. Various studies indicate around 10 to 12 percent of adults use cannabis at least once a year and nearly a third of those people are Māori.
46. Prohibition has had a limited effect in reducing harms related to cannabis use in New Zealand. For example, prohibition does not directly address addiction or other health issues. The outcome of a criminal conviction creates additional social harms with lifelong consequences for users, their families and communities. Prohibition also poses a barrier for people to seek help for cannabis use due to the stigmatisation associated with its criminal element.

Māori are disproportionately harmed by prohibition

47. Research shows that Māori are more likely to use cannabis and experience harm from its use. In 2016/17, 26 percent of Māori adults had used cannabis for non-medicinal reasons compared to 12 percent of the total adult population. Māori

are also significantly more likely to have tried cannabis before the age of 14 than non-Māori.

48. Māori are also more likely to receive a cannabis-related conviction than non-Māori. While data shows the proceeding rates for both Māori and non-Māori have decreased over the past four years by 14% and 17% respectively, in 2017/18 Māori were 3.8 times more likely to be proceeded against for use and possession than non-Māori. In that same period, 42 percent of individuals who received a prison sentence for cannabis offending were Māori.²
49. New Zealand Police has actively shifted away from prosecuting people for use and possession of cannabis. However, the approach is discretionary. Proceedings data indicates that Māori still experience more criminalisation and the resulting social harms than other ethnicities. Should cannabis be legalised, the model must promote equity and improve opportunities for Māori.
50. A harm reduction approach to cannabis must seek to improve health outcomes for all New Zealanders, particularly Māori. The Inquiry into Mental Health and Addiction indicated that existing services do not always work for Māori. This will need to be considered as part of the investment in health services alongside the regulatory model.

Models of legalisation

51. Options 2, 3 and 4 on the referendum question require the development of a legal framework, whether as a policy document, draft legislation or as enacted law. The ways to achieve legalisation of personal use of recreational cannabis are:
 - 51.1. Decriminalisation of recreational cannabis use;
 - 51.2. A full legal and regulated market for recreational cannabis.
52. The principal question, in the event there is an appetite across the majority of the electorate to legalise the personal use of recreational cannabis, is what legal model is more likely to achieve harm minimisation objectives.

Decriminalisation

53. Generally, decriminalisation is where personal use of recreational cannabis would remain illegal. Instead of prosecution, alternative penalties (such as a fine) would be given for cannabis use and possession offences. Decriminalisation could also apply to personal cultivation of a limited number of plants to provide some form of supply.
54. Decriminalising use, possession and private cultivation of recreational cannabis would end the criminalisation of people for minor instances of use, possession and private cultivation. This is a particularly significant issue for Māori. However,

² While Police may prosecute adults for cannabis use and possession, the prison population directly attributable to these offences is zero. People in prison, whose sentence is linked to cannabis use or possession, have been imprisoned due to other offending but have also attracted a concurrent term due to the cannabis offence.

decriminalisation would not address the issue of supply. People who want to use cannabis but cannot or do not wish to grow their own supply, would be forced to turn to the illicit market. This is essentially the model that applies in the Netherlands and requires the authorities to refrain from enforcing the law against supply where no harm is evident.

55. Decriminalisation offers the possibility of non-criminal use, and possibly legal use if there were no infringement regime, of cannabis. It would almost certainly need to be accompanied by regulation of age and place of use. It would create the opportunity for suitable public health messages in places of use.
56. The problem with decriminalisation models (including those that legalise possession and use by individuals) is that they leave supply unregulated. This impedes the ability to control quality of products (principally tetrahydrocannabinol (THC) content) and, to the extent most supply in New Zealand is controlled by criminal elements, impedes any harm minimisation associated with removing criminal elements.

Full regulation of recreational cannabis

57. A Government controlled and tightly regulated market, with the size of the market set at a level that is consistent with current demand for cannabis, achieves legalisation of personal use of recreational cannabis while at the same time allowing regulation and control of harmful aspects of the substance throughout the whole supply chain.
58. A Government controlled and tightly regulated market should enable the Government to steer market behaviour towards achieving the objective of minimising harm, while providing safe and legal access to cannabis.
59. There is an expectation that there will be an excise tax regime, similar to other harmful product regimes, and that revenue raised should be used for harm minimisation.
60. Full regulation would address the following elements:
 - 60.1. Establish a minimum age to use and purchase recreational cannabis;
 - 60.2. Limit the potency of cannabis and cannabis products available;
 - 60.3. Limit consumption of cannabis to private homes and specifically licensed premises;
 - 60.4. Permit the sale of cannabis through physical stores only (not online or by remote sale);
 - 60.5. Require the inclusion of health and harm minimisation messaging in the marketing and retailing of cannabis;
 - 60.6. Establish the parameters whereby small amounts of cannabis may be legally shared socially with those over the legal purchase and use age while reinforcing penalties for individuals who share with those under the designated purchase and use age;

- 60.7. Establish the regulated market controls over seed and / or plant purchase to permit private cultivation of cannabis at home, including the requirement to keep children and underage individuals safe;
- 60.8. Establish the regulated market controls that would permit cannabis-infused products to be made at home but prohibit extraction of resins and other concentrates at home;
- 60.9. Ensure through a state licensing regime that all stages of the supply chain are licenced and controlled;
- 60.10. Control through state licensing all manufacture of cannabis products, including resins and other concentrates;
- 60.11. Control through state licensing all commercial manufacture of cannabis-infused products, such as edibles;
- 60.12. Restrict marketing activities, including a ban on all advertising of cannabis products;
- 60.13. Criminalise the importation of cannabis unless by a Government licensed wholesaler for the current market to minimise the consequence of an illegal trade.

What should a regulatory model address?

Cannabis use causes harm

- 61. Regular use of cannabis increases the risks of developing depression, psychosis and schizophrenia. Use can be particularly harmful for people under 25 years old as the brain is still developing. Additionally, consuming cannabis by smoking can increase the risk of developing breathing issues, lung damage and some cancers, and second-hand smoke could have detrimental impacts on others. There is also a high risk of dependence among those who regularly use, including a one in six chance of young people developing a dependence.
- 62. Cannabis use also contributes to social issues. For example, cannabis use can be a factor in offending by some people, and family and friends can be affected by the user's behaviour and addiction issues. Cannabis impairment can be a factor in motor vehicle accidents (after alcohol, cannabis is the most common substance found in impaired drivers' systems) and health and safety incidents at work.

Objectives for cannabis reform

- 63. If it is agreed that a regulatory framework be developed (whether as a policy document or a exposure draft piece of legislation) then following objectives could guide the design of the regulatory model:
 - 63.1. **Primary objectives:**

- 63.1.1. Address the wellbeing of New Zealanders and harm reduction – the model should minimise harms associated with cannabis, such as health-related harm, social harms and harm to youth.
- 63.1.2. Lower the overall use of cannabis over time through education and addiction services – with a particular focus on lowering the use amongst youths by increasing the age of first use. Revenue raised through the regulation of cannabis should contribute to relevant health-related measures.

63.2. Secondary objectives:

- 63.2.1. Disempowering the gangs and the illegal trade in cannabis;
- 63.2.2. Lowering the prison population over time and lowering the number of New Zealanders (especially Maori) whose future opportunities are negatively affected by cannabis use charges;
- 63.2.3. Ensure product safety and control of THC levels via legislation and regulation;
- 63.2.4. Be consistent with the rule of law – the model should uphold New Zealand's constitution. It should also minimise opportunities for the illicit market and be clear and easy to follow;
- 63.2.5. Tailored and workable for New Zealand – the model should recognise and reflect our cultural practices and the values of New Zealand society so that it can be accepted by New Zealanders;
- 63.2.6. Fiscal sustainability – the model should seek to fund mechanisms that directly address cannabis-related harms, while also aiming to lower use over time

64. I note that there is a tension between the primary objective of improving the wellbeing of New Zealanders, which requires minimising harm caused by cannabis use, and the potential revenue that could be raised through a domestic cannabis market. The proposed regulatory model outlined below prioritises wellbeing while taking into account the potential fiscal and financial consequences.

Lessons from the alcohol and tobacco regulatory models

- 65. Existing alcohol and tobacco regulatory models provide lessons for the regulation of cannabis as there are key similarities between the three substances. However, it should be noted that there are also important differences, such as their effects, the way they are used, and the Government's response to use.
- 66. Regulation of cannabis provides a unique opportunity to develop a new regulatory system aimed at carefully mitigating harm and shaping the social norms that will develop around recreational cannabis use. We have an opportunity to anticipate and mitigate the risks seen with tobacco and alcohol regulation in New Zealand and

internationally, while also recognising that cannabis is a unique product and will require its own tailored regulatory model.

Possible regulatory model

67. The following proposal sets out aspects of a regulatory model that emphasises harm minimisation through a government-controlled regulated market for the production, supply and use of recreational cannabis. The size of the market should be limited (ie, a small number of licensed businesses operating in the market) to a level that is adequate for meeting current demand levels, with a view to reducing demand and thus market size over time.
68. This approach would see the Government controlling and regulating all parts of the supply chain to ensure that any incentives for competitive commercial measures targeted at increasing demand for cannabis, such as low prices and mass marketing campaigns, could not eventuate. Good quality public health messaging would be required.
69. The Government can also ensure the rights and interests of Māori are protected. A small market with government control over how many businesses can operate and how much they can produce should also ensure businesses have strong incentives to cooperate and adhere to government policy.
70. Legalising the personal use of recreational cannabis without providing a safe and legal way for people to access cannabis products carries the risk of exposing users to more harmful drugs and other illicit activities.
71. A Government controlled and regulated market provides a safe way for people to access cannabis products and allows them to know the quality and potency of the products they are consuming, minimising harms from use of these products.
72. The following considers the first set of decisions that need to be made in designing the government-controlled regulated market. They are:
 - 72.1. who can use and purchase cannabis;
 - 72.2. what forms of cannabis should be regulated;
 - 72.3. where cannabis can be used;
 - 72.4. the scope of the private sphere – what people can do in their own home; and
 - 72.5. the scope of the commercial sphere – what can be conducted commercially.

Setting a minimum age for the personal use and purchase of recreational cannabis

73. Consumption of cannabis is particularly harmful for those under 25 as the brain continues to develop until the mid-20s. Studies show that the likelihood of developing dependence on cannabis increases for those who use when they are young. Cannabis use is also associated with educational underachievement and school dropout, which can have significant enduring life consequences.

74. Use and experimentation of cannabis is currently prevalent among young people in New Zealand, with a 2011 report from the Office of the Prime Minister's Chief Science Advisor suggesting that by age 21, around 80 percent of young New Zealanders have tried cannabis.
75. In setting the appropriate minimum age for cannabis use it is important to ensure access to cannabis by young people would be restricted, thus minimising harm to youth. At the same time, however, we need to find a balance between regulating to protect young people and inadvertently driving supply underground.
76. In my view the minimum age for cannabis use, including the purchase age, should be set at 20. I consider that a minimum age of 20 is workable in New Zealand and adequately addresses the objective of improving the wellbeing of young people who are at greater risk of harm from cannabis use. It would also contribute to establishing social and cultural norms against use by young people, especially those in secondary school. Although a minimum age of 20 would not align with the current age limit of 18 for tobacco and alcohol, it does align with entry to casinos and the zero tolerance/drink driving age, both of which are 20.
77. The main issue with setting a minimum age of 18 is that it would provide an opportunity for 18-year olds to supply cannabis to younger school-aged peers. Setting the minimum age higher than 20 would recognise the greater risk of harm cannabis use has on people under 25. However, it would likely push a significant number of people to the black market, which would be inconsistent with the primary objective of minimising harm.
78. I consider that setting the minimum age at 20 strikes the appropriate balance between deterring use by young people, especially those in secondary school, while ensuring safe and legal access to cannabis is available for most of the people who choose to use it.

Regulating different forms of cannabis

79. The risks associated with cannabis use are significantly influenced by preparation, dosage and method of consumption, which are all closely linked to potency. Raw cannabis is the most commonly consumed type of cannabis in New Zealand, but anecdotal evidence suggests various forms of cannabis, such as resins, edible and lotions, are also used.
80. The following forms of cannabis should be legalised and regulated:
- 80.1. *Raw cannabis* – this includes fresh or dried cannabis plant material (including seeds) with no additives. It can be smoked, vaporised or consumed with food or drink;
- 80.2. *Cannabis resin and other concentrates* – this includes a wide range of concentrated products, including resin, oil and wax. Concentrates are generally more potent than raw cannabis, although potency can vary significantly;

- 80.3. *Cannabis-infused products* – this includes edibles, drinks, lotions and patches, all of which are used without smoking or inhaling. These products can be made with varying levels of potency.
81. Making these products, which are already used for cannabis consumption in New Zealand, available in a Government controlled and regulated market would reduce the need for people to engage with the illicit market. It would also enable better control of the quality and potency of cannabis and these cannabis preparations, which could help to minimise cannabis-related harms. Specifically it would enable regulation of the psychoactive substance in cannabis, THC.

Limiting cannabis consumption to private homes and licensed premises

82. To ensure cannabis use is not promoted or encouraged, it is important that exposure to cannabis is limited where possible. One means to limit exposure is restricting where cannabis can be used. Jurisdictions that have legalised cannabis have responded differently to this question. For example, Colorado, Oregon and Washington State have banned cannabis consumption in public places. In British Columbia, smoking and vaping cannabis is generally permitted in places where smoking and vaping tobacco is permitted but there are some additional areas where smoking and vaping cannabis is prohibited (e.g. playgrounds, sports fields, at bus stops or within 6 metres of a bus stop).
83. Permitting cannabis use in public places especially around areas frequented by children and young people, may normalise the behaviour and expose more people to cannabis and its effects (e.g. second-hand smoke which can have psychoactive effects). Therefore, I propose that cannabis use should be restricted to individuals' homes, including their outdoor areas, and in the homes of other people with their permission.
84. Licensing premises would provide for safe spaces for people to use cannabis away from home. Permitting use at specifically licensed premises recognises that some people, such as tenants and people with children at home, cannot or may not wish to use cannabis at home. Licensed premises may also provide an opportunity for staff to monitor and promote safe consumption behaviours.

Commercial cultivation, production and supply

Commercial cultivation and production

85. Legalising the personal use of recreational cannabis without legalising its commercial cultivation and production could lead to a situation similar to the Netherlands. Cannabis use in the Netherlands has been decriminalised and 'coffee shop' sales are tolerated but production is strictly forbidden, which has resulted in coffee shops being supplied via the illicit market.
86. A legal cannabis industry, if well-designed, would reduce people's need to engage with the illicit market. It would also enable the Government to implement a robust safety and quality assurance regime to provide control over growing conditions and product quality standards. Creation of a new industry could also provide opportunities for regional development.

87. Registering or licensing every part of the supply chain, including growers and producers, would be important to monitor safety and quality standards. Further details regarding the most appropriate licensing regime and the necessary regulatory framework are still being developed which would include the most appropriate way to restrict direct sales to the public except by a Government licensed retailer

Commercial manufacture of cannabis-infused products

88. There are a number of ways that cannabis can be consumed, from smoking to consuming in food and drinks. The harms from smoking are widely known; it harms nearly every organ in the body, causing many diseases and reducing health in general. Enabling access to cannabis-infused products, such as edibles, could encourage users to consume cannabis in ways other than smoking.
89. However, there is a tension between enabling alternative ways to consume cannabis and providing easy, convenient consumption methods that may encourage cannabis use. Therefore, I recommend that commercial manufacture of cannabis-infused products be permitted with strict regulations, such as strict labelling and packaging requirements. Regulations should ensure cannabis-infused products provide clear information on what the product contains, its potency, effects and dosage to help users make informed choices. These products would only be able to be sold to Government licensed retail outlets, not direct to the consumer.

Commercial manufacture of cannabis resin and other concentrates

90. Cannabis resins and other concentrates (e.g. oils), which are used in New Zealand, are generally more potent than raw cannabis. As with raw cannabis, they can be smoked or consumed in food and drink.
91. Resins and other concentrates should only be manufactured commercially. This is because many of the solvents used for extraction are highly flammable (e.g. butane), so the process of extracting these products can be dangerous.
92. Allowing Government controlled and regulated commercial manufacture of resins and other concentrates would provide access for users and reduce the need for people to extract these products at home unsafely. As these products are generally more potent than raw cannabis, commercial manufacture would also enable potency to be regulated and help people who choose to use them to make informed choices.

Sale of cannabis in physical stores only

93. Cannabis and cannabis products should only be sold in physical stores. Physical stores make enforcement of minimum-age restrictions easier and provide an opportunity for vendors to intervene in instances of problematic use and guide users to support services if necessary. Harm-related messaging should also be included in the marketing of cannabis, including in retail outlets.
94. While online sales or other forms of remote sale (e.g. mail or phone orders) may be a better option for some people, such as those in remote areas, these methods of sale make enforcement of critical safeguards, such as the age restriction or safe delivery of products, more difficult. The convenience of online sales may also encourage new

users to try cannabis. For people unable to access physical stores, Government controlled and regulated seed and plant sales could allow for private cultivation. This would be available as an alternative way to legally source cannabis products. Parameters outlining the definition of “private cultivation” quantities would need to be developed.

Marketing restrictions

95. Alcohol and tobacco research shows the impact marketing can have on levels of use and patterns of use. For example, various alcohol research suggests that exposure through adverts, promotions, retail outlets and media is associated with the likelihood that youth will start to drink alcohol, and with increased drinking among existing drinkers. I recommend that marketing activities be restricted for cannabis, including a ban on all advertising of cannabis products. Any permitted marketing activities must include health-related and harm minimisation messaging.

Limiting the import of cannabis

96. It is important to consider the regulation of import of cannabis, as export of certain types of cannabis is legal in other countries, such as export of cannabis seeds in the United Kingdom.
97. The import of cannabis, including cannabis seeds, should be limited to Government licensed entities and allowed only to address certain needs in the market, such as shortages that could not be met by the domestic market. This approach would help ensure legal supply of cannabis can meet demand, thus minimising possible opportunities for the illicit market.
98. Import of cannabis by individuals for personal use should not be permitted as it would make the cannabis market more difficult to control and could lead to oversupply of cannabis. Other jurisdictions that have legalised cannabis also do not currently allow import of cannabis for personal use.

Private cultivation, production and supply

Growing cannabis plants at home

99. Although it is a criminal offence to grow cannabis currently, private cultivation already exists in New Zealand as some people prefer to grow their own supply of cannabis in order to avoid contact with the illicit market and have cannabis for lower cost.
100. Private personal use and cultivation of cannabis could be permitted and controlled through the requirement to purchase seeds / seedlings only from a Government controlled and regulated body. It acknowledges that people already grow cannabis plants in New Zealand and provides an alternative way of accessing cannabis other than through a physical store, which may be preferable for people in rural and remote communities.

Making cannabis products at home

101. Government controlled and regulated production of the raw material means that cannabis-infused products could be permitted to be produced at home to provide people with access to alternative consumption methods. However, cannabis resins and other concentrates should not be permitted to be produced at home given the dangers associated with the extraction process. Instead, resins and other concentrates will be available commercially.

Sharing small amounts of cannabis socially

102. Cannabis is a social drug and is often shared in social settings among friends or acquaintances with no significant element of commerciality.
103. Social sharing of cannabis between people who meet the age requirement (ie, 20 years or over) should be permitted. This should be limited to sharing of a small quantity between friends or acquaintances and must not include or be associated with activities such as selling or gifting for promotion or remuneration purposes. Sharing with young people under the age requirement would be prohibited, regardless of parental or guardian permission.
104. It is possible that social sharing could be seen to enable and possibly encourage experimentation with cannabis. However, social sharing already occurs in New Zealand despite the current prohibition. This approach recognises that prohibition is not a deterrence and instead removes the criminal element associated with social sharing, thus minimising the harm caused by criminal convictions.

Regulating recreational cannabis use alongside other existing systems

Investment in cannabis-related health services

105. The Report of the Government Inquiry into Mental Health and Addiction, *He Ara Oranga*, released on 4 December 2018, found that existing services do not always work for people, particularly for Māori, Pasifika, ethnic communities, migrants and refugees.
106. As cannabis use increases the risk of mental health and addiction problems, the regulatory model for recreational cannabis needs to sit alongside greater investment in resources for prevention, early intervention, and wrap-around health and treatment services for substance use disorders. Services need to be more widely available and adequately address people's needs, including culturally appropriate services and services targeted to young people.
107. The Ministry of Health will be reporting back on the Inquiry in March 2019. Ministry of Justice officials will be working with the Ministry of Health to determine how to best target services and ensure the health-focused, harm reduction approach of the model aligns with the recommendations of the Inquiry.

Investment in education

108. Long-term public education and awareness raising, including in schools, will be required to counter the persistent and somewhat socially-accepted view that

cannabis does not cause harm, including health-related harm. This will need to be targeted to different communities and age groups, rather than a generic approach.

109. Public education would provide information to enable informed decisions on cannabis use and greater awareness of ways to seek help. Prevention efforts will be necessary to target early-onset of cannabis use, impairment at work, cannabis-impaired driving, and to contribute to the development of norms against use. Lessons can be learned from the successful anti-tobacco message in New Zealand.

Medicinal cannabis regime

110. There is likely to be an overlap between the framework for medicinal cannabis products and any regulatory model for the personal use of recreational cannabis. Evidence suggests that many people use cannabis for medical reasons; a study by the Ministry of Health in 2012/13 indicated that 42 percent of New Zealanders who used cannabis report using it for medicinal purposes. The potential effects of a legalised government controlled and regulated market for personal use of recreational cannabis on the existing medicinal cannabis framework needs to be well understood.
111. A government controlled regulatory model for the personal use of recreational cannabis could be developed separately from the existing medicinal model to preserve medical access and prioritise the needs and wellbeing of patients. Such an approach could also allow clear and consistent messaging about the harms of cannabis for personal use. An alternative would be for a single framework to regulate both. Ministry of Justice officials are working with the Ministry of Health to determine the best approach.

Industrial hemp regime

112. Industrial hemp is a variety of cannabis that generally has a THC content below 0.35 percent. It also contains cannabidiol (CBD), which does not contain any psychoactive properties. In contrast, recreational cannabis for personal use generally has a much higher THC concentration (usually as high as 30 percent for raw cannabis and 80 percent for concentrates) and also contains CBD. Hemp is primarily used for industrial purposes while cannabis is generally grown for its psychoactive properties.
113. Hemp is a controlled drug under MoDA. However, people can apply for a licence to be a cultivator, which enables them to process hemp into specified products.
114. A government controlled regulatory model for the personal use of recreational cannabis will also have an impact on the existing industrial hemp regime. Separate models would recognise that, while closely related, hemp and cannabis possess markedly different characteristics and use, and could also prevent conflicting health messages associated with each substance. Ministry of Justice officials are undertaking further work to better understand the relationship between the models and determine the best approach.

Consultation

115. The Prime Minister, Deputy Prime Minister, Ministers of Corrections, Health, Housing and Urban Development, Education, Employment, Finance, Police, Ministers for Children, Community and Voluntary Sector, Ethnic Communities, Māori Development, Pacific Peoples, Rural Communities, Social Development, and Women have been consulted on this paper. The Green Party and New Zealand First have been consulted on this paper.
116. The following government agencies have been consulted on this paper: The Treasury, Te Puni Kōkiri, New Zealand Police, Electoral Commission, New Zealand Customs Service, Ministry of Primary Industries, Ministry of Foreign Affairs and Trade, Ministry of Business, Innovation and Employment, Ministry for Women, Ministry for Pacific Peoples, Ministry for Environment, Department of Internal Affairs, Ministry of Transport, Department of Corrections, Ministry of Social Development, Oranga Tamariki, State Services Commission, Inland Revenue, Stats NZ, Ministry of Education, Crown Law Office, Social Investment Agency and the Ministry of Health. The Department of the Prime Minister and Cabinet was informed of the contents of this paper.

s9(2)(h)

s9(2)(h)

Financial Implications

118. Cabinet agreed to fund the Ministry of Justice and Ministry of Health for 2018/19 through the between-Budget contingency fund for \$1.93m [CAB-18-MIN-0641.02 refers]. s9(2)(f)(iv)

s9(2)(f)(iv)

s9(2)(h)

Legislative Implications

123. Subject to Cabinet decisions, any legislation to be enacted before the referendum that includes provisions relating to the overall system of cannabis, including the cultivation, sale and supply, and use of recreational cannabis in New Zealand would preferably be passed by December 2019, with March 2020 as an absolute deadline in order to undertake the referendum at the 2020 General Election. s9(2)(f)(iv)

Impact Analysis

124. The Regulatory Impact Assessment (RIA) requirements apply to the proposals in this paper. A RIA has been prepared and is attached.
125. A Quality Assurance Panel with representatives from the Ministry of Health and the Treasury Regulatory Quality Team has reviewed the RIA 'cannabis regulatory model' produced by the Ministry of Justice and dated March 2019. The panel considers that it partially meets the Quality Assurance criteria. Further analysis by the Ministry of Justice in subsequent RIA might see this assessment change.
126. The RIA clearly describes the types of options that can make up a regulatory model, contains a lot of information about current issues, and does a good job identifying the types of impacts that would be expected from different regulatory design.

127. Some features of the regulatory model are incomplete. For example, it is unclear how the licencing regime will operate and the quantity of supply will be regulated, and how effective this will be at achieving reductions in cannabis use while avoiding consequences, such as perpetuating the illicit market.
128. Impacts of different options are generally unquantified. This makes it hard to be confident that the RIA recommends the best options. For instance, prohibiting the commercial production of edibles would bring benefits of reduced risk of accidental consumption (including by children), but costs from greater consumption by smoking, increased risk of people mis-dosing homemade edibles and reduced choice for people with disabilities. Whether prohibiting sales is the best option depends on the relative size of these benefits and costs, and what weight the Government places on them.
129. Many of these impacts would be hard to quantify even with more analysis. Uncertainty around the impacts of the regulatory regime means that there will be benefit in ongoing review of regulatory settings once the regime is established. This may, however, conflict with public expectations that their vote on a particular regulatory model be respected. The subsequent RIA should detail how monitoring and review will be handled, and whether this should be signalled at the referendum.

Human Rights

130. Establishing a minimum age of 20 to use and purchase cannabis limits the right to be free from discrimination under the New Zealand Bill of Rights Act 1990 (NZBORA).
131. I consider that the limitation is justified as it meets the Government's objective of improving the wellbeing of young people who have a greater risk of harm from cannabis use. A minimum age of 20 would create social and cultural norms against use by young people and seeks to limit the supply of cannabis to those in secondary school. It also aligns with the minimum age of entry into casinos and the zero tolerance/drink driving age.
132. Crown Law Office will complete a final determination of the consistency of the Bill with NZBORA, including any limits on minimum age, once the Bill is drafted.

Māori/Crown Relationship Implications

133. As discussed earlier in this paper, the regulatory system will have a significant impact on Māori. Officials will be undertaking targeted engagement with Māori and iwi to ensure that the regulatory model recognises and actively protects Māori rights and interests. I will be carefully considering these views and report to SWC on how the regulatory model will impact Māori and any key views put forward by Māori/iwi.

Gender Implications

134. In New Zealand, surveys indicate that women are much less likely to use cannabis and are less likely to report harm from cannabis use. Some research suggests that women may experience different impacts from cannabis use than men. However, further research is required to fully understand the impacts of cannabis use on women. Officials will work with the Ministry of Health and Ministry for Women to

ensure that the proposed regulatory model facilitates further research to better address the needs of different groups, including women.

Disability Perspective

135. The proposed model limits how people can purchase cannabis, which may raise issues for people with disabilities. Officials will work with the Office for Disability Issues to consider issues of equal access and protections.

Publicity

136. I will make public announcements in due course about the referendum and the nature of it. My Office will provide your Offices with key points to assist with any other public statements.

Proactive Release

137. I propose to proactively release this Cabinet paper as part of the public engagement on the cannabis referendum. I will likely release it as part of a suite of Cabinet papers on the referendum. My Office will work with other relevant Ministers' Offices on the timing of the release.

Recommendations

The Minister of Justice recommends that Cabinet:

Previous considerations

1. **note** that in December 2018, Cabinet agreed that a binding referendum will be held at the 2020 General Election to determine whether legislative provisions for the legalisation of (recreational) cannabis should be adopted [CAB-18-MIN-0641.02]

Approach to the referendum question

2. **note** that the content of the question used for the referendum will help to frame the public conversation about legalising recreational cannabis
3. **note** that an informed debate on the legalisation issue relies on the public having clarity about what will happen in response to an affirmative vote to legalise recreational cannabis
4. EITHER
 - 4.1. **agree** to the framing of the referendum question as a Yes/No question on whether personal use of recreational cannabis should be legalised through action by subsequent Government/Parliament (Option 1)

OR

- 4.2. **agree** to the framing of the referendum question as a Yes/No question on whether published policy framework should be enacted by subsequent Government/Parliament (Option 2)

OR

- 4.3. **agree** to the framing of the referendum question as a Yes/No question on whether draft legislation should be enacted by subsequent Government/Parliament (Option 3)

OR

- 4.4. **agree** to the framing of the referendum question as a Yes/No question on whether legislation enacted prior to the referendum should come into force (Option 4)
5. **note** that all parties currently in government will abide by the outcome of the referendum;

[Subject to decisions at recommendation 4, should Cabinet agree to either Option 2 Option 3 or Option 4]

Legalisation through tight regulation

6. **note** that Option 2, Option 3 and Option 4 require the development of a regulatory model for personal use of recreational cannabis, whether as a policy document, draft legislation or as enacted law
7. **agree** that the Government's role is to design a workable regulatory model for discussion and debate
8. **note** that legalisation of the personal use of recreational cannabis would make aspects of cannabis use, possession and supply lawful
9. **note** that the adoption of a tightly regulated approach, governing the production, sale and use of cannabis would allow government to control the quality and safety of cannabis used in New Zealand, and minimise harm
10. **agree** that the referendum provide a clear choice between the status quo and a legal, regulated recreational cannabis market

s9(2)(h)

Overarching policy settings for a regulatory model for cannabis

12. **note** that New Zealand's current prohibition approach has had limited success in addressing harm caused by cannabis use and that Māori have been disproportionately harmed by the approach
13. **agree** that the primary policy objectives to guide the development of the regulatory model for personal use of recreational cannabis are:
- 13.1. address the wellbeing of New Zealanders and harm reduction – the model should minimise harms associated with cannabis, such as health-related harm, social harms and harm to youth; and
- 13.2. Lower the overall use of cannabis over time through education and addiction services – with a particular focus on lowering the use amongst youths by increasing the age of first use for those disposed to using it.

Revenue raised through the regulation of cannabis should contribute to relevant health-related measures.

14. **agree** that the following secondary policy objectives also guide the development of the regulatory model:
 - 14.1. Disempowering the gangs and the illegal trade in cannabis;
 - 14.2. Lowering the prison population over time and lowering the number of New Zealanders (especially Maori) whose future opportunities are negatively affected by cannabis use charges;
 - 14.3. Ensure product safety and control of THC levels via legislation and regulation;
 - 14.4. Be consistent with the rule of law – the model should uphold New Zealand's constitution. It should also minimise opportunities for the illicit market and be clear and easy to follow;
 - 14.5. Tailored and workable for New Zealand – the model should recognise and reflect our cultural practices and the values of New Zealand society so that it can be accepted by New Zealanders;
 - 14.6. Fiscal sustainability – the model should seek to fund mechanisms that directly address cannabis-related harms, while also aiming to lower use over time
15. **agree** that the overall structure of the regulatory model be a government-controlled regulated market for the production, supply and use of cannabis, with the size of the market limited to a level that is adequate for meeting current demand
16. **agree** that the regulatory model to be considered at the referendum is a model that:
 - 16.1. Establishes a minimum age of 20 to use and purchase recreational cannabis;
 - 16.2. Controls and regulates the potency of cannabis and cannabis products available;
 - 16.3. Controls and regulates consumption of cannabis to private homes and specifically licensed premises;
 - 16.4. Controls and regulates the sale of cannabis through physical stores only (not online or by remote sale);
 - 16.5. Requires the inclusion of health and harm minimisation messaging in the marketing and retailing of cannabis;
 - 16.6. Controls and regulates the parameters whereby small amounts of cannabis may be legally shared socially with those over the legal purchase and use age while reinforcing penalties for individuals who share with those under the designated purchase and use age;

- 16.7. Establishes the regulated market controls over seed and / or plant purchase to permit private cultivation of cannabis at home, including the requirement to keep children and underage individuals safe;
- 16.8. Establishes the regulated market controls that would permit cannabis-infused products to be made at home but prohibit extraction of resins and other concentrates at home;
- 16.9. Ensures through a state licensing regime that all stages of the supply chain are licenced and controlled;
- 16.10. Controls through a state licensing regime all manufacture of cannabis products, including resins and other concentrates;
- 16.11. Control through a state licensing regime all commercial manufacture of cannabis-infused products, such as edibles;
- 16.12. Restricts marketing activities, including a ban on all advertising of cannabis products;
- 16.13. Criminalises the importation of cannabis unless by a Government licensed wholesaler for the current market to minimise the consequence of an illegal trade.

Other considerations

- 17. **note** that Cabinet has agreed to fund a scaled amount of the estimated costs associated with the cannabis referendum, and future funding or reprioritisation decisions may be required;
- 18. **note** that investment in cannabis-related health services and education will be needed alongside the regulatory model;
- 19. **note** that there is likely to be an overlap between the medicinal cannabis regime and the regulatory model for the personal use of recreational cannabis, and Ministry of Justice officials are working with the Ministry of Health to determine the best approach to address this
- 20. **note** that the regulatory model for personal use of recreational cannabis will have an impact on the existing industrial hemp regime, and Ministry of Justice officials are undertaking further work.

[Should Cabinet agree to Option 2 or 3]

Proposed process for a policy document or exposure draft

- 21. **note** that the document setting out the legislation would need to include enough detail for the public to vote on and, following a 'yes' vote, for the next Parliament to progress the work accordingly

22. **agree** to a limited and confidential stakeholder engagement approach that focuses on utilising expertise and experience to assess whether the document has any unintended consequences, following Cabinet's initial agreement to the document

s9(2)(f)(iv)

24. **invite** the Minister of Justice to issue drafting instructions for Parliamentary Counsel Office to prepare an exposure draft of a Bill reflecting the decisions above and made as part of the process outlined in rec 23 below (option 3 only)
25. **authorise** the Minister of Justice to make decisions, in consultation with other Ministers and coalition and confidence and supply partners as appropriate, on the detail of the overall regulatory system for cannabis to prepare an exposure draft of a Bill (option 3 only);
26. **invite** the Minister of Justice to report back to SWC seeking confirmation of the detailed decisions made as part of rec 23 (option 3 only);
27. **invite** the Minister of Justice to report back to SWC with an exposure draft of the Bill to release for targeted stakeholder engagement (option 3 only);

[Should Cabinet agree to Option 4]

Proposed legislative process

28. **note** that if Option Four is selected legislation would need to be passed by March 2020 in order to hold a binding referendum at the 2020 General Election

s9(2)(f)(iv)

30. **invite** the Minister of Justice to issue drafting instructions for Parliamentary Counsel Office to begin drafting provisions relating to the overall regulatory system for cannabis
31. **agree**, should Option Four be selected, to the Minister of Justice writing to the House Business Committee to discuss establishing an ad-hoc select committee for the legislation on the legalisation of cannabis

Next steps

32. **invite** the Minister of Justice to report back to the Cabinet Social Wellbeing Committee with further details of the regulatory model.

Authorised for lodgement

Hon Andrew Little

Minister of Justice

RELEASED BY THE MINISTER OF JUSTICE